8788270/2024/VIG-III-MAU01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – MA&UD Department – Allegation of Corruption against Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat, Erstwhile Kurnool District – Convicted by the Special Judge for Trial of SPE & ACB cases of Kurnool in C.C.No.07 of 2016, dt.25.06.2019 – Dismissal from service – W.A.No.54 of 2021 & C.C.No.221 of 2020 filed before the Hon'ble High Court – Orders of High Court – Revised Dismissal Orders - Issued.

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MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT (VIG.III) DEPARTMENT

G.O.Ms.No.61 **Dated.19.04.2024**

Read the following :

1. From the DSP, ACB, Kurnool Range, Kurnool, Radio Message, dt.15.09.2014.
2. G.O.Rt.No.766, MA&UD (Vig.IV.1) Dept., dt.30.09.2014.
3. From the DG, ACB, RC.No.222/RCT-KUR/2014, dt.18.09.2015.
4. G.O.MS.No.5, MA&UD (Vig.I) Dept., dt.13.01.2016.
5. G.O.Rt.No.140, MA&UD (Vig.I) Dept., dt.24.06.2016.
6. From the DG, ACB, Vijayawada, Lr.RC.No.222/RCT-KUR/2014, dt.05.07.2019.
7. From the DG, ACB, Vijayawada, Lr.RC.No.222/RCT-KUR/2014, dt.15.07.2019.
8. Judgement of the Hon'ble Special Judge for Trial of SPE & ACB Case, Kurnool in CC No.7/2016, dt.25.06.2019.
9. From the Hon'ble High Court of A.P, CRLA No.537 of 2019 IA of 2019, dt.05.7.2019.
10. G.O.Rt.No.598 MA&UD (Vig.III-1) Department, dt.17.09.2019.
11. Orders of the Hon'ble High Court in W.P.No.16480 of 2019, dt.22.10.2019.
12. W.A.No.54 of 2021 against the orders in WP No.16480/2019,dt.22.10.2019.
13. CC.No.221 of 2020 filed by Sri A.Tarakanth, former MC, Banaganapally Nagar panchayat, Kurnoool district.
14. Orders of Hon'ble High Court of AP in its in WA No.54 of 2021 in CC No.221 of 2020, dt.18.10.2022.
15. Representation received from Sri A.Tarakanath, former MC, Banaganapally Nagarapanchayat (Dismissed), dt.08.11.2022.
16. Orders, dt.03.02.2023 of the Supreme court in Special leave to appeal (C) No.1858-1859/2023.
17. G.O.Rt.No.146, MA&UD (Vig.III) Dept., dt.06.03.2023.
18. G.O.Ms.No.30, MA&UD (Vig.III) Dept., dt.14.03.2023.
19. Orders of the Hon'ble High Court in IA No.1 of W.P.No.13296 of 2023, dt.12.05.2023.
20. Orders of the Hon'ble High Court in IA No.2 of W.P.No.13296 of 2023, dt.12.05.2023.
21. Govt.Memo No.14201/Vig.III/2014, dt.10.02.2024.
22. Written representation of Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat, dt.Nil (Received on 20.02.2024).

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ORDER :

Whereas, Sri A. Tarakanath (AO-1) Municipal Commissioner Banaganapally Nagarapanchayath was trapped by the Anti Corruption Bureau authorities, Kurnool Range, Andhra Pradesh on the allegation of demand and acceptance of bribe amount of Rs.5,000/- from the complainant on 10.09.2014 for issuing proceedings for building plan approval for constructions of house in the site belonging to the mother-in-law of the complainant's elder brother, vide reference 1st read above. Accordingly, Sri A.Tarakanath, Municipal Commissioner, Banaganapally Nagarpanchayat has been placed under suspension (deemed) from the date of his detention i.e., 11.09.2014 in terms of Rule 8 (2)(a) of the APCS (CC&A) Rules, 1991, vide reference 2nd read above.

2. And whereas, in the reference 3rd read above, the Director General, Anti Corruption Bureau, Hyderabad furnished the final report and recommended to prosecute Sri A. Tarakanath (AO-1) Municipal Commissioner Banaganapally Nagarapanchayath in a court of law. The final report of the DG., ACB has been examined carefully and prosecution orders were issued against the above individual, vide reference 4th read above.

3. And whereas, the DG, ACB, Vijayawada, vide reference 6th read above informed that the Spl. Judge for Trial of SPE & ACB, Kurnool, delivered judgment on dt.25.06.2019 in C.C.No.07/2016 convicting Sri A.Taraknath, former Municipal

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Commissioner, Banaganapally Nagarapanchayat, Kurnool District and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs 5,000/- for the offence punishable u/s.7 of P.C. Act,1988 and in default of payment to undergo simple imprisonment for three months and further sentenced him to undergo rigorous imprisonment for two years for the offence punishable U/S 13(2) r/w 13 (1) (d) of P.C. Act,1988 and to pay a fine of Rs.5,000/- and in default of payment of fine amount to undergo simple imprisonment for three months. Total fine amount is Rs.10,000/-. Both the sentences shall run concurrently, vide reference 8th read above.

4. Aggrieved by above judgement, the individual filed Criminal Appeal No. 537/2019 in the Hon'ble High Court and that the Hon'ble High Court, in the Criminal Appeal No.537 of 2019, dt.05.07.2019 filed by Sri A. Taraknath have directed as under vide reference 9th read above:-

".....this court is of the opinion that the sentence of imprisonment alone in CC No.7 of 2016, dt.25.06.2019 passed by the Special Judge for Trail of SPE & ACB Cases, Kurnool, be suspended pending the appeal and the petitioner is directed to be enlarged on bail on his executing a personal bond for a sum of Rs.10,000/- with two sureties for a like sum each to the satisfaction of the Special Judge for Trail of SPE & ACB Cases, Kurnool".

5. Government examined the matter and observed that Sri A. Taraknath former Municipal Commissioner, Banganapalli NagarPanchayat was found guilty for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and convicted under Section 248(2) of the Code of Criminal Procedure, 1973 and sentenced to suffer rigorous imprisonment for two years and pay a fine of Rs.5,000/- by the Special Judge for SPE & ACB cases, Kurnool in C.C.No.7 of 2016 Dt.25.06.2019.

6. And whereas, orders were issued in G.O. Ms.No.2, GAD, dt.04.01.1999 read with G.O.Ms.No.458 GAD, dt.22-9-2009 ordering that in all proved cases of misappropriation, bribery, bigamy, corruption, moral turpitude and forgery, etc., the penalty of dismissal from service shall be imposed. And whereas, Government imposed the penalty of dismissal from service against Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayath, Kurnool District in terms of rule 25 (i) read with rule 9(x) of the APCS (CCA) Rules, 1991, vide reference 10th read above.

7. And whereas, Sri A.Tarakanath, former Municipal Commissioner (Dismissed), Banaganapally Nagarapanchayath filed a WP No.16480/2019 in the Hon'ble High Court of AP with a prayer to set-aside the dismissal orders issued by Government, in G.O.Rt.No.598, MA&UD Dept., dt.17.09.2019. The Hon'ble High Court, vide their orders, in WP.No.16480 of 2019, dt.22.10.2019 set aside the above dismissal orders on the ground that no enquiry was conducted for the dismissal of petitioner, which is a major punishment and also directed the respondents to initiate disciplinary proceedings and take action by following due procedure of law, vide reference 11th read above.

8. And whereas, Government filed Writ Appeal No.54 of 2021 before the Hon'ble High Court against the orders in WP No.16480/2019, dated.22.10.2019. In the meanwhile, Sri A.Tarakanath, former MC (Dismissed) filed CC No.221 of 2020 for not implementing the orders, dt.22.10.2019 in WP No.16480/2019. The Hon'ble High Court has delivered the following common judgment in WA No.54 of 2021 and CC No.221 of 2020 dt.18.10.2022, vide reference 14th read above:-

".....While the power is available to the State to pass such orders as it deems fit in the circumstances of the case, this Court is of the opinion that the impugned order does not reveal or furnish any indication to conclude how and why or for what reasons the order of dismissal came to be passed. There is no discussion about the gravity of the offence or the seriousness of the offence etc., Rule 25 clearly mandates that the disciplinary authority must consider the "circumstances" of the case before coming to the conclusion. Paragraph-2 of the order, which is detailed above, merely states that the State has considered that his conviction warrants imposition of dismissal from service. In the opinion of this Court, the impugned order does not show or speak of the satisfaction of the disciplinary authority or the consideration of the circumstances. In that view of the matter, the Writ Appeal is dismissed. No costs.It is, however, reiterated that this order will not preclude the appellant-respondent to take necessary action as warranted by law, but within a period of 60 days. Till the said action is taken the respondent-writ petitioner shall be taken back into service only for the purpose of enabling the State to decide on the future course of action".

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9. And whereas, Government have filed Special Leave to Appeal (C) No.1858-1859/2023 in Supreme Court of India against the above orders, dt.18.10.2022 in W.A.No.54/2021 and C.C.No.221 of 2020 of the Hon'ble High Court and it was dismissed by the Apex court in its orders, dt.03.02.2023. And whereas, Government after careful consideration of the orders of the Hon'ble Supreme Court of India and Hon'ble High Court of Andhra Pradesh have reinstated Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat into service and place him under deemed suspension with effect from 17.09.2019, i.e., the date of original order of dismissal, under Rule 8(4) of the A.P. Civil Services (CC&A) Rules, 1991, vide reference 17th read above. In that orders, it also mentioned that he will be entitled to subsistence allowance @50% of his pay, D.A., and other compensatory allowances, as per Rules during the period spent under deemed suspension.

10. Government after examining the matter and conviction of Sri A.Taraknath, former Municipal Commissioner, Banaganapalle Nagarpanchayat by the Spl.Judge for SPE & ACB Cases, Kurnool in CC No.7/2016, dt.25.06.2019 for demanding and accepting a bribe amount of Rs.5,000/- for issuing proceedings for building plan approval for construction of a house and the conviction is not suspended by the Appellate Court, it is decided that it is undesirable to retain such Government servant in service and it is also against the public interest to continue him in service. Accordingly, Government issued orders dismissing Sri A.Taraknath, former Municipal Commissioner, Banaganapalle Nagarpanchayat from Government service with immediate effect, in exercise of the powers conferred under clause (x) of Rule 9 read with clause (i) of Rule 25 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 vide reference 18th read above.

11. Aggrieved by above, Sri A.Taraknath, former Municipal Commissioner(u/s), Banaganapalle Nagarpanchayat filed an IA No.1 of WP No.13296 of 2023 seeking to suspend the dismissal orders issued by Government in G.O.Ms.No.30 MA&UD (Vig.III) Dept., dt.14.03.2023 pending disposal of the Writ Petition. The Hon'ble High Court in its interim orders, dt.12.05.2023 has issued interim suspension of operation of the above dismissal orders. The above Accused has also filed an IA No.2 of WP No.13296 of 2023 seeking to pay the arrears of salary to him from 17.09.2019 to till date. The Hon'ble High Court in its interim orders, dt.12.05.2023 has directed the respondents to pay the subsistence allowance to him from the date of dismissal to till date.

12. The Government have filed counter affidavits for vacation the orders issued in IA Nos.1 & 2 in WP No.13296 of 2023 and the orders of the Hon'ble High Court are awaited. In compliance to the orders issued in the reference 17th read above, the Commissioner, Gudiwada has paid the subsistence allowance of Rs.13,45,860/- to Sri A.Taraknath, former Municipal Commissioner, Banaganapalle Nagarpanchayat from the date of original dismissal i.e., 17.09.2019 to the date of further dismissal i.e., 13.03.2023.

13. Further, Government in order to comply with the directions of Hon'ble High Court in WA No.54 of 2021, dt.18.10.2022 i.e., giving a fairly, justify and reasonably opportunity, Government have decided to issue a show cause notice to Sri A. Taraknath, former Commissioner, Banaganapalle Nagarpanchayat, as to why the penalty of dismissing from service shall not be imposed, in terms of G.O.Ms.No.2, GA (Ser.C) Department, dt.04.01.1999 read with G.O.Ms.No.458 GA (Ser.C) Department, dt.22.09.2009 and in terms of clause (x) of Rule 9 read with clause(i) of Rule 25 of the APCS (CCA) Rules, 1991, as the Trial Court in its orders, dt.25.06.2019 in CC No.07/2016 convicted him with rigorous imprisonment of 2 years under section 7 of PC Act, 1988. Accordingly, issued show cause notice to Sri A. Taraknath, former Commissioner, Banaganapalle Nagarpanchayat with a direction to submit his written representation on the above proposed penalty within (10) days from the date of receipt of this Memo vide reference 21st read above.

14. Sri A. Taraknath, former Commissioner, Banaganapalle Nagarpanchayat has filed CC Nos.6596 and 4224 of 2023 in IA Nos.1 and 2 of 2023 in WP No.13296 of 2023 respectively with a plea to punish the respondents for wilfully violating deliberately disobeying the orders passed in IA Nos.1 & 2 in WP No.13296 of 2023, dt.12.05.2023. Accordingly, counter affidavits have filed in above both CC Nos duly explaining the details mentioned at Para-(12) above and existing rule position. The orders from the Hon'ble High Court are awaited in the matter.

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15. In reply to above show cause notice, Sri A.Taraknath, former Municipal Commissioner, Banaganapalle Nagarpanchayat has submitted his written representation vide reference 22nd read above. In the said representation, while stating among others, has requested to make immediate arrangements to reinstate him into service in pursuance of the orders, dt.22.10.2019 of the Hon'ble Court in WP No.16480 of 2019 and orders, dt.12.05.2013 in IA No.1 of 2023 in WP No.13296 of 2023 and pay the allowances as per orders, dt.12.05.2023 in IA No.2 of 2023 in WP No.13296 of 2023, as he is having one year and 5 1/2 months of service only. As seen from the said written explanation, it is noticed that he has not stated as to how he is entitled for continue in service after conviction nor stated that the conclusions of criminal court in CC No.07 of 2016 are bad in law. The punishment in CC No.7/2016 on the proved charge of bribery amounts to moral turpitude.

16. The Hon'ble Supreme Court in Municipal Committee, Bhahadurgarh Vs Krishnan Behari (AIR 1996 SC 1249) held that in case involving corruption there can not be any other punishment than dismissal. Any sympathy shown in such cases is totally uncalled for and opposed to public interest. Bribery being a serious misconduct and is violative of the code of conduct.

17. And whereas, it is considered that the conduct of the said Sri A.Taraknath, former Municipal Commissioner, Banganapally Nagarapanchayat, which led to his conviction rendered his further retention in the public service undesirable. The Hon'ble Supreme Court in Deputy Director of Collegiate education(Administration) Madras Vs. S. Nagoor Mera reported in (1995) 3SCC 377 held that more appropriate course in all such cases is to take action under clause (a) of the Second Proviso to Art 311(2). And whereas, on a consideration of facts and circumstances of the case, proved misconduct of serious nature, Government have decided that the penalty of dismissal from Government service shall be imposed on Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat, with immediate effect.

18. Now, in pursuance the orders, dt.18.10.2022 of the Hon'ble High Court in WA No.54 of 2021 and CC No.221 of 2020 and in exercise of the powers conferred under clause (x) of Rule 9 read with clause (i) of Rule 25 of the APCS (CCA) Rules, 1991, Government hereby dismiss Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat, from Government service with immediate effect.

19. The Commissioner & Director of Municipal Administration, AP, Vaddeswaram shall take necessary further action in the matter, accordingly and furnish compliance report to Government, immediately.

20. The following Notification shall be published in the Extraordinary issue of the Andhra Pradesh Gazette, dt.19.04.2024.

NOTIFICATION

In exercise of the powers conferred under clause (X) of rule 9 read with clause (i) of rule 25 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991, the Government of Andhra Pradesh hereby dismiss Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat from Government service with immediate effect, consequent on his conviction in C.C.No.07/2016 by the Spl.Judge for Trial of SPE & ACB Cases, Kurnool.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Y. SRILAKSHMI
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner and Director of Municipal Administration, A.P., Vaddeswaram.
Sri A.Tarakanath, former Municipal Commissioner (u/s), Banaganapally Nagarapanchayat, Erstwhile Kurnool District **through** the CDMA, AP.
The Regional Director of Municipal Administration, Anantapur.

Copy to:
The Director General, Anti Corruption Bureau, Vijayawada.
The Secretary to Vigilance Commissioner, APVC, Velagapudi.
The Accountant General, AP, Vijayawada.
The Special GP (Kasa Jagan Mohan Reddy), O/o the Advocate General, APHC.
Sc/Sf (E 59412).

//FORWARDED::BY ORDER//

SECTION OFFICER